

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

In re JDS UNIPHASE CORPORATION
SECURITIES LITIGATION

No. C 02-1486 CW

ORDER RE:
SEQUENCING OF
WITNESSES AT
TRIAL

_____/

Pursuant to the Court's instruction at the pre-trial conference, the parties have met and conferred regarding the sequencing of witnesses at trial and submitted a joint statement outlining their points of agreement and their respective positions on the remaining disputes.

Having considered the parties' positions and good causing appearing therefor, the Court hereby orders:

1. As stated at the pre-trial conference, the Individual Defendants shall be called in the Defendants' case-in-chief.

2. Plaintiffs may call Brian Cover, Ken Crawford, Kerry DeHority, Ed Grabowy, Russ Johnson, Glen Kernick, and Steve Moore

1 during their case-in-chief, but may not do so until after their
2 expert, Steven Henning has testified. In the alternative, the
3 parties may agree that these witnesses will be called in the
4 Defendants' case-in-chief and Plaintiffs will be permitted to
5 cross-examine them without limitation to the scope of Defendants'
6 direct examination.

7 3. If Defendants cannot assure that David Lightfoot and Rick
8 MacMillan will appear to testify during their case-in-chief,
9 Plaintiffs may introduce the witnesses' deposition testimony during
10 their case-in-chief and Defendants will not be permitted to present
11 live testimony from either. If Defendants can assure that
12 Lightfoot and MacMillan will appear during their case-in-chief,
13 Plaintiffs will have an opportunity to cross-examine them without
14 limitation to the scope of Defendants' direct examination.

15 4. To the extent possible, the parties should stipulate to
16 the authenticity of documents. The Court notes that the parties'
17 joint pre-trial conference statement included the following
18 stipulations:

- 19 A. The parties stipulate that all documents produced
20 by JDSU to [Plaintiffs] for purposes of this
21 litigation are authentic.
22 B. The parties stipulate to the authenticity of all
23 published print news articles and
24 publicly-available press releases and analyst
25 reports, but preserve all hearsay objections.

26 Joint Pre-Trial Conference Statement at 31. If any party intends
27 to dispute the authenticity of a document not included in these
28 stipulations, it must first make a written offer of proof regarding
the factual basis for its challenge.

5. The parties shall splice any video testimony to be used at

1 trial into a single presentation which includes all parties'
2 designations in the sequence that the testimony was given.

3 IT IS SO ORDERED.

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5 Dated: 10/16/07



CLAUDIA WILKEN
United States District Judge